

**Notice of Allowability**

Application No.

10/540,568

Examiner

Fred M. Teskin

Applicant(s)

KANAE ET AL.

Art Unit

1713

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to AMENDMENT AND SUPPLEMENTAL REPLY OF JUNE 23 AND 30, 2006.
2. ☒ The allowed claim(s) is/are 2-8 and 10-14.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

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|--|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application  |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                       | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date <u>090606</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),<br>Paper No./Mail Date <u>040406</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment  |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                 | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance                       |
|  | 9. <input type="checkbox"/> Other _____.   |

**Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Claim 5 (Currently Amended), line 1: ---elastomer sheet-- has been inserted after "thermoplastic".

Claim 9 has been cancelled.

**Examiner's Comment**

Authorization for this examiner's amendment was given in a telephone interview with applicants' representative, Mr. Young, on September 6, 2006.

The terminal disclaimer filed on June 23, 2006, disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of US Patent No. 6,670,426 has been reviewed and is accepted. The terminal disclaimer has been recorded. The obviousness-type double patenting rejection has been obviated by the proper terminal disclaimer.

Receipt is acknowledged of the verified translation of applicants' priority document submitted with the supplemental response of June 30, 2006. The priority

Art Unit: 1713

claim is deemed perfected, thereby avoiding any potential rejection based on any published application relating to Kanae et al '426.

### **Reasons for Allowance**

The following is an examiner's statement of reasons for allowance:

Applicants claim an olefin thermoplastic elastomer sheet composed of an elastomer material comprising an olefinic random copolymer obtained by copolymerizing ethylene, an alpha-olefin having 3 to 10 carbon atoms and an unsaturated monomer having a functional group, and optionally a non-conjugated diene, and *metal ions crosslinking the olefinic random copolymer*, wherein the unsaturated monomer having a functional group is a functional cyclic compound represented by the defined formula (1).

Examiner has not located or identified any prior art documents that can be used to render the claimed subject matter anticipated or obvious to a person having ordinary skill in the art at the time the invention was made.

Accordingly, claims 2-8 and 10-14 are deemed to define allowable subject matter and passed to issue.

Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 1713

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner F. M. Teskin whose telephone number is (571) 272-1116. The examiner can normally be reached on Monday through Thursday from 7:00 AM - 4:30 PM, and can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on (571) 272-1114. The appropriate fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FMTeskin/09-05-06



**FRED TESKIN**  
**PRIMARY EXAMINER**  
1713